

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Timothy J. Gorbey, Administrator, d.b.n., of the
Estate of Marissa Rose Fishman, deceased, on
behalf of the Estate of Marissa Rose Fishman
pursuant to the Survival Statute, 10 Del. C. Sec. 3704,
and on behalf of Rochelle Beth Longwill,
Eric Casey Fishman, Alexandra Shoshana Fishman,
Harrison Benjamin Fishman and
Samuel Solomon Fishman as beneficiaries of
Marissa Rose Fishman pursuant to
the Wrongful Death Statute, 10 Del. C. Sec. 3724

Plaintiff

v.

Richard Longwill, Barbara Longwill,
Ashland Construction Company, and
Vincent Rizzo

Defendants.

C.A. No. 05-211-MPT

JURY TRIAL DEMANDED

**MOTION TO PRECLUDE DEFENDANTS
FROM CALLING TIMOTHY J. GORBEEY AS A
WITNESS AT TRIAL**

_____Plaintiff presents this Motion to preclude Defendants from calling Timothy J. Gorbey, Administrator of the Estate of Marissa Rose Fishman as a witness at trial.

On April 25, 2008, Defendants identified Timothy J. Gorbey as a witness. However, Mr. Gorbey was not a witness to any of the events at issue in this matter. He possesses no first-hand information regarding the circumstances leading to Marissa Fishman's death or the damages arising from it. Accordingly, his testimony will not have "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would

be without the evidence.” See F.R.E. 401. Accordingly, Defendants should not be permitted to call him as a witness at trial.

Respectfully submitted,

WEISS & SAVILLE

/s/ Yvonne Saville

YVONNE SAVILLE, ESQUIRE

I.D. No. 3430

Local Counsel for Plaintiff

Weiss & Saville

1220 Market Street, Suite 604

Wilmington, DE 19899

**KLINE & SPECTER,
A Professional Corporation**

BY: S/Jonathan M. Cohen

I.D. No. 69062

1525 Locust Street

19th Floor

Philadelphia PA 19102

Attorney for Plaintiff

Dated: May 25, 2007

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ORDER

_____ This 28th day of April, 2008, upon consideration Plaintiff's Motion to Preclude Defendants From Calling Timothy J. Gorbey as a Witness At Trial, Plaintiff's Motion is GRANTED and Defendants are precluded from calling Timothy J. Gorbey as a witness at trial.

The Honorable Mary Pat Thyng